

California Regional Water Quality Control Board  
Santa Ana Region

June 4, 2004

ITEM: 10

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Mark Quesada, Village Drive, Chino Hills, San Bernardino County

DISCUSSION:

On April 30, 2004, Mark Quesada contacted staff regarding the proposed construction of a new house and a pool house on his lot in Chino Hills. Mr. Quesada is proposing to construct a 4-bedroom, 2-bath home to be located at the site. An on-site septic tank-subsurface disposal system will be utilized for the discharge of sanitary wastes from the house. Mr. Quesada also proposes to construct a pool house on his property. The pool house would consist of a retreat room and bath. A separate 750-gallon septic tank-subsurface disposal system is proposed for the discharge of sanitary wastes from this pool house. The gross size of the lot is slightly less than one acre (39,649 sq. ft or 0.91 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for the disposal of sanitary wastes.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that, in fairness, it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments. Mr. Quesada's lot satisfies the minimum lot size requirement for a single family dwelling utilizing a septic tank-subsurface disposal system. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows to an existing development must be considered a "new" development. The addition of the pool house/septic tank-subsurface disposal system that Mr. Quesada now proposes renders the development of his property a "new development", to which the minimum lot size requirements apply. Mr. Quesada's lot is slightly less than one acre in size (3,911 sq. ft too small) and, therefore, staff was required to deny his request for a clearance for the project.

In adopting the MLSRs pertaining to the addition of freestanding structures, the Board's concern was that the freestanding structure might, in time, be used as a second single-family dwelling, substantially adding to the wastewater flows at the site. In Mr. Quesada's case, it is unlikely that the pool house would be used in future as a second single-family residence, given its size and the limitations imposed by the homeowner's association to which Mr. Quesada belongs. The homeowner's association prohibits the addition of second family dwelling units on properties governed by the association. Staff also recognizes that the lot size (0.91 acre) is very close to the 1-acre minimum that would be required to approve a second dwelling on the lot.

**RECOMMENDATION:**

Approve Mr. Quesada's request for an exemption from the minimum lot size requirement, contingent on the stipulation that the pool house will not be used as a second dwelling unit.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon  
San Bernardino County Environmental Health Services – Ray Britain (04-137)  
San Bernardino County Building and Safety – Barbara Johnston